

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DAVID E. COCHRAN, et al.,)	CASE NO. 1:13 CV 2628
)	
Plaintiffs,)	JUDGE DAN AARON POLSTER
)	
vs.)	<u>MEMORANDUM OF OPINION</u>
)	<u>AND ORDER</u>
COMMISSIONER OF SOCIAL SECURITY,)	
)	
)	
Defendant.)	

Before the Court is the Report and Recommendation (“R&R”) of Magistrate Judge Kathleen Burke issued and served on counsel for Plaintiffs David Cochran and Carl Steele via the Court’s electronic case filing system on October 2, 2014. (Doc. 30).

Plaintiffs seek judicial review of the Social Security Administration’s decision reducing their monthly retirement benefit amount under the Windfall Elimination Provision of the Social Security Act. Defendant Carolyn Colvin, the Acting Commissioner of Social Security, filed a Motion to Dismiss Plaintiffs’ amended complaint on the ground that this Court lacks subject matter jurisdiction over this action under the applicable statute, 42 USC § 405(g). (Doc. 26 ; Doc. 27). The Magistrate Judge recommends granting Defendant’s Motion to Dismiss.

Under the relevant statute:

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings

and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1) (emphasis added). In this case, Plaintiffs filed a motion for extension of time until November 17, 2014 to file an objection. As of November 20, 2014, Plaintiff has filed neither an objection nor a request for additional time to file one.

The failure to timely file written objections to an R&R constitutes a waiver of a de novo review by the district court of any issues covered in the R&R. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

Despite the lack of objection, the Court has reviewed the Magistrate Judge's thorough, well-written R&R. The Court agrees with the Magistrate Judge's findings and conclusions, and **ADOPTS** the Magistrate Judge's recommendation that the Defendant's Motion to Dismiss should be **GRANTED** on the ground that this Court lacks subject matter jurisdiction over this action. In addition, the Court agrees with the Magistrate Judge that Defendant's Motion for Misjoinder (Doc. 24) should be **DENIED** as moot.

IT IS SO ORDERED.

/s/ Dan A. Polster November 20, 2014
Dan Aaron Polster
United States District Judge